

R E M A R K S

Applicants are filing this Reply and Response under 37 CFR §1.111 in response to the Examiner's Restriction requirement and Election of claims for prosecution under 35 U.S.C. § 121 and rejection of Applicants' Claims 14, 15, 18 and 22-23 under 35 U.S.C. § 112 and provisional rejection of Claims 1-26 under the judicially created doctrine of obviousness-type double patenting.

The Election/Restrictions

In the Office Action, mailed May 10, 2005 the Examiner required affirmation of the election made without traverse to prosecute the invention of Group I, Claims 1-26 and withdrawal of Claims 27-48 from further consideration by the Examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Applicants made a provisional election in a preliminary amendment filed on April 4, 2005 under 35 U.S.C. § 121 to prosecute the invention of Group I, claims 1-26.

Group I. Claims 1-26, drawn to a catalyst and method for the production thereof, classified in class 502, subclass 78.

Group II. Claims 27-48, drawn to an alkylation process, classified in class 585, subclass 400+.

Applicants affirm the election without traverse of Group I, Claims 1-26, for prosecution on the merits. Group II, Claims 27-48, have been cancelled without prejudice to Applicants filing a divisional application to the subject matter contained therein.

Claim Objections

Claims

In Claim 4, line 2, "to" should be replaced by "or".

Claim 4 has been amended to replace "to" by "or" to obviate the Examiner's objection.

The Rejections

Claim Rejections – 35 USC § 112

Claim 14, 15, 18 is rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner states:

Claim 18 recites a catalyst "prepared by the process of claim 13", but claim 13 is not a process claim.

Claims 14, 15 and 22-23 are indefinite in the recitation of "suitable" because this is not defined terminology.

Claim 18

To obviate the Examiner's rejection, Claim 18 has been amended to correct the error by replacing "prepared by the process" with "using the catalyst composite."

Claims 14, 15 and 22-23

Claims 14 and 22 are cancelled to obviate the rejection under 35 USC § 112, second paragraph and to further the prosecution. Claims 15 and 23 have been amended to correct their dependency.

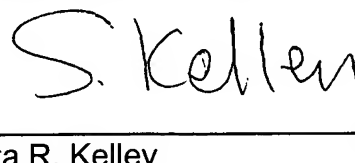
Double Patenting

The Examiner has provisionally rejected Applicants' Claims 1-26 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 68-85 of Applicants' co-pending Application No. 10/799,907. The Examiner has found the conflicting claims not identical, but not patently distinct from each other because they differ from one another only in that the co-pending claims require zeolite Y. This component is not excluded from the instant claims however.

A terminal disclaimer is filed with this paper to obviate the Examiner's rejection of Claims 1-26 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 68-85 of Applicants' co-pending Application No. 10/799,90 and to further prosecution.

For the foregoing reasons, it is submitted that Applicants' amended Claims 1-24 particularly point out and distinctly claim the subject matter which applicant regards as the invention. Accordingly, allowance of amended Claims 1-24 is respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script that reads "S. Kelley". The signature is written in black ink and is positioned above a horizontal line.

Sarita R. Kelley
Attorney for Applicants
Reg. No. 50,850
(925) 842-1538

SRKelley:kec
Enclosure
May 26, 2005